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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,744	05/16/2002	Uwe Flessner	P-1118	6015
7590	04/22/2004		EXAMINER	ILDEBRANDO, CHRISTINA A
Scott R Cox Lynch Cox Gilman & Mahan 400 West Market St Suite 2200 Louisville, KY 40202			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/049,744	FLESSNER, UWE
	<b>Examiner</b>	<b>Art Unit</b>
	Christina Ildebrando	1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) 1-3,5-7,9,10,13-15,17-19 and 21-28 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 4,8,11,12,16 and 20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of Group IV, claims 4, 8, 11-12, 16, and 20, in the paper filed January 29, 2004 is acknowledged. The traversal is on the ground(s) that the claimed process defines a single embodiment of an invention as described in MPEP 806.03. This is not found persuasive. Applicant has argued rules of US restriction practice which are not relevant to national stage applications. Applicant has not argued the lack of unity as set forth by the examiner in the previous office action.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-3, 5-7, 9-10, 13-15, 17-19, and 21-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the paper filed January 29, 2004.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 4, 8, 11, 12, 16, and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to

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reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 4 recites the limitation ““wherein a solution which is formed during acid activation is separated from a remaining solution which contains excess catalytically active cations.” It is the position of the examiner that the specification as originally filed and supported by the original Declaration does not provide support for the claim language. The specification states “The solution which formed during acid activation together with the residual solution which contains the excess, catalytically active cations are then separated.” This described process is completely different than what is recited in the claims. Also, it is not clear where in the specification support for claims 11 and 12 would be.

If applicant believes that the specification does provide support for the recitation considered by the examiner to constitute new matter, applicant is requested to point to the page and line number where such support can be found.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 4, 8, 11, 12, 16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 925 829.

EP 0 925 826 discloses an acid activated clay for treating aromatic hydrocarbons. The EP reference teaches that a dioctahedral smectite clay is treated with a mineral acid in the presence of catalytically active ions which are present in the clay such as aluminum and iron [0054], [0058]-[0066]. The acid solution solution is then separated and the clay is treated with an iron salt [0067]-[0071]. This is considered to meet "wherein a solution which is formed during acid activation is separated from a remaining solution which contains excess catalytically active ions" because the acid solution is separated from the clay prior to the adding additional iron to the clay. The clay is washed dried and calcined [0067]-[0071].

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by EP 0 925 829.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Ildebrando whose telephone number is (571) 272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Christina Ildebrando*  
Christina Ildebrando  
Patent Examiner  
Art Unit 1725

4/15/04

CAI  
April 15, 2004